

Calendar No. 477

111TH CONGRESS
2D SESSION**S. 258**

To amend the Controlled Substances Act to provide enhanced penalties for
marketing controlled substances to minors.

IN THE SENATE OF THE UNITED STATES

JANUARY 15, 2009

Mrs. FEINSTEIN (for herself, Mr. GRASSLEY, and Mr. BAYH) introduced the
following bill; which was read twice and referred to the Committee on the
Judiciary

JULY 22, 2010

Reported by Mr. LEAHY, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Controlled Substances Act to provide enhanced
penalties for marketing controlled substances to minors.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “~~Saving Kids From~~
5 ~~Dangerous Drugs Act of 2009~~”.

1 **SEC. 2. OFFENSES INVOLVING CONTROLLED SUBSTANCES**
 2 **MARKETED TO MINORS.**

3 Section 401 of the Controlled Substances Act (21
 4 U.S.C. 841) is amended by adding at the end the fol-
 5 lowing:

6 “(h) OFFENSES INVOLVING CONTROLLED SUB-
 7 STANCES MARKETED TO MINORS.—

8 “(1) UNLAWFUL ACTS.—Except as authorized
 9 under this title, including paragraph (3), it shall be
 10 unlawful for any person at least 18 years of age to
 11 knowingly or intentionally manufacture, create, dis-
 12 tribute, dispense, or possess with intent to manufac-
 13 ture, create, distribute, or dispense, a controlled sub-
 14 stance listed in schedule I or II that is—

15 “(A) combined with a candy product;

16 “(B) marketed or packaged to appear simi-
 17 lar to a candy product; or

18 “(C) modified by flavoring or coloring the
 19 controlled substance with the intent to dis-
 20 tribute, dispense, or sell the controlled sub-
 21 stance to a person under 21 years of age.

22 “(2) PENALTIES.—Except as provided in sec-
 23 tion 418, 419, or 420, any person who violates para-
 24 graph (1) of this subsection shall be subject to—

25 “(A) 2 times the maximum punishment
 26 and at least 2 times any term of supervised re-

1 lease authorized by subsection (b) of this sec-
 2 tion for a first offense involving the same con-
 3 trolled substance and schedule; and

4 ~~“(B) 3 times the maximum punishment~~
 5 ~~and at least 3 times any term of supervised re-~~
 6 ~~lease authorized by subsection (b) of this sec-~~
 7 ~~tion for a second or subsequent offense involv-~~
 8 ~~ing the same controlled substance and schedule.~~

9 ~~“(3) EXCEPTIONS.—Paragraph (1) shall not~~
 10 ~~apply to any controlled substance that—~~

11 ~~“(A) has been approved by the Secretary~~
 12 ~~under section 505 of the Federal Food, Drug,~~
 13 ~~and Cosmetic Act (21 U.S.C. 355), if the con-~~
 14 ~~tents, marketing, and packaging of the con-~~
 15 ~~trolled substance have not been altered from the~~
 16 ~~form approved by the Secretary; or~~

17 ~~“(B) has been altered at the direction of a~~
 18 ~~practitioner who is acting for a legitimate med-~~
 19 ~~ical purpose in the usual course of professional~~
 20 ~~practice.”.~~

21 **SECTION 1. SHORT TITLE.**

22 *This Act may be cited as the “Saving Kids From Dan-*
 23 *gerous Drugs Act of 2010”.*

1 **SEC. 2. OFFENSES INVOLVING CONTROLLED SUBSTANCES**
 2 **MARKETED TO MINORS.**

3 *Section 401 of the Controlled Substances Act (21*
 4 *U.S.C. 841) is amended by adding at the end the following:*

5 *“(h) OFFENSES INVOLVING CONTROLLED SUBSTANCES*
 6 *MARKETED TO MINORS.—*

7 *“(1) UNLAWFUL ACTS.—Except as authorized*
 8 *under this title, including paragraph (3), it shall be*
 9 *unlawful for any person at least 18 years of age to*
 10 *knowingly or intentionally manufacture or create,*
 11 *with intent to manufacture, create, distribute, or dis-*
 12 *perse, a controlled substance listed in schedule I or II*
 13 *that is—*

14 *“(A) combined with a candy product;*

15 *“(B) marketed or packaged to appear simi-*
 16 *lar to a candy product; and*

17 *“(C) modified by flavoring or coloring the*
 18 *controlled substance with the intent to distribute,*
 19 *dispense, or sell the controlled substance to a per-*
 20 *son under 18 years of age.*

21 *“(2) PENALTIES.—Except as provided in section*
 22 *418, 419, or 420, any person who violates paragraph*
 23 *(1) of this subsection shall be subject to—*

24 *“(A) 2 times the maximum punishment and*
 25 *at least 2 times any term of supervised release*
 26 *authorized by subsection (b) of this section for a*

1 *first offense involving the same controlled sub-*
 2 *stance and schedule; and*

3 *“(B) 3 times the maximum punishment and*
 4 *at least 3 times any term of supervised release*
 5 *authorized by subsection (b) of this section for a*
 6 *second or subsequent offense involving the same*
 7 *controlled substance and schedule.*

8 *“(3) EXCEPTIONS.—Paragraph (1) shall not*
 9 *apply to any controlled substance that—*

10 *“(A) has been approved by the Secretary*
 11 *under section 505 of the Federal Food, Drug,*
 12 *and Cosmetic Act (21 U.S.C. 355), if the con-*
 13 *tents, marketing, and packaging of the controlled*
 14 *substance have not been altered from the form*
 15 *approved by the Secretary; or*

16 *“(B) has been altered at the direction of a*
 17 *practitioner who is acting for a legitimate med-*
 18 *ical purpose in the usual course of professional*
 19 *practice.”.*

20 **SEC. 3. SENTENCING GUIDELINES.**

21 *Pursuant to its authority under section 994 of title*
 22 *28, United States Code, and in accordance with this section,*
 23 *the United States Sentencing Commission shall review and*
 24 *amend the Federal sentencing guidelines and policy state-*
 25 *ments to ensure that the guidelines provide an appropriate*

1 *additional penalty increase of up to 3 offense levels above*
2 *the sentence otherwise applicable in Part D of the Guide-*
3 *lines Manual if the defendant was convicted of a violation*
4 *of section 401(h) of the Controlled Substances Act, as added*
5 *by section 2 of this Act.*

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